KELDA HELEN ROYS
STATE REPRESENTATIVE
WISCONSIN ASSEMBLY

TO: Members of the Assembly Committee on Elections and Campaign Reform
FROM: Rep. Kelda Helen Roys
DATE: February 17, 2010
RE: Testimony in Support of AB 751, *National Popular Vote Bill*

Good afternoon Chairman Smith and committee members, and thank you for the opportunity to testify today on Assembly Bill 751, the *National Popular Vote Bill,* which guarantees that the presidential candidate who receives the most votes in all 50 states wins.

Assembly Bill 751 is an agreement with other states to change the way the President of the United States is elected. It implements a national popular vote for President.

In short, Assembly Bill 751, when enacted by a sufficient number of states, guarantees that the presidential candidate who receives the most votes will be elected.

Let me briefly explain why a national popular vote is necessary.

First, and most obviously, right now there is no guarantee that the presidential candidate receiving the most votes will actually get elected. This has already occurred in 4 of our nation's 56 presidential elections.

The problem is actually more dire than those numbers indicate. In 1 out of 7 non-landslide elections, the candidate receiving fewer votes was sworn into office.

Furthermore, the second place candidate comes close to winning in many other elections. For example, in 2004, a swing of 60,000 votes in Ohio would have resulted in Sen. Kerry winning the Electoral College, despite losing the popular vote by more than 3.5 million votes.

In 5 of the last 13 presidential elections, the shifting of a few thousand votes in a couple of states would have changed the outcome.

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Second, and arguably more significantly, is that presidential campaigns ignore 2/3rds of the country. In both 2004 and 2008, 98% of all campaign resources – where candidates visited, where they advertised, polled, financed field operations, etcetera – were spent in just 15 states. Fully two thirds of those resources were allocated to just six states.

Both of these problems stem from the "winner-take-all" system that states use to allocate their electoral votes. It is the "winner-take-all" rule that creates the system of so called battleground and safe states and incentivizes campaigns to ignore 2/3rds of the country.

Under the winner-take-all rule, once a candidate is safely ahead or hopelessly behind in a given state – i.e., a "safe" state – there is no reason to pay any attention to that state.

In 2008, for example, it didn't matter to Obama whether he received 61% in Wisconsin or 51%, either way he was going to receive all 10 electoral votes. The flip side is also true, McCain had no motivation to try and improve his performance as there is no difference between 39% and 49%.

The "winner-take-all" rule is something that we can, and need to, fix on a state level. It is not federal law, and not part of the Constitution

The Founding Fathers and the Constitution specifically and deliberately left it up to state legislatures to determine how their state's electoral votes should be allocated. In fact, under our Constitution, states are in charge of their elections – and every significant electoral change has come about not through Constitutional amendment, but first through state action. For instance, the direct election of US Senators, women's suffrage, and other expansions of the franchise came about because states individually changed their state election laws to help democracy flourish. In fact, our current "winner-take-all" system came about this way as well: there is nothing in the Constitution that gives us the right to vote for president – that came about because each of the states determined that it

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would be best to hold a popular referendum to determine how to award its electoral votes.

The National Popular Vote agreement contained in Assembly Bill 751 awards all the electoral votes from the enacting states to the presidential candidate who receives the most popular votes in all 50 states. The agreement takes effect only when adopted by states cumulatively possessing a majority of the electoral votes.

In other words, when states with combined electoral votes of 270 have adopted the agreement, those electoral votes are awarded as a block to the candidate receiving the most popular votes in all 50 states. This agreement guarantees that the candidate receiving the most popular votes also receives a majority of the electoral college and hence is elected. Nobody's on the hook until everybody's on the hook.

Mr. Chairman and members, moving to a national popular vote not only addresses the problems I discussed earlier, but also a much more fundamental problem with our democracy.

All voters in presidential election are not of equal value.

This isn't a function of wealth or education or age or access, but rather of simple geography. Presidential candidates currently care more about a voter in Florida than a voter in Kansas; more about someone living in Ohio than in Oregon. Simply put, every vote is not equal.

Wisconsin was fortunate in 2000 and 2004 – we profited from this inequality because we were a battleground state and thus reaped the benefits and attention.

However, experience demonstrates that battleground status is fleeting. Battleground states come and go. A state is usually battleground for two or three election cycles and then slips into being a safe state for a period of time, as we saw in 2008 when the McCain campaign determined Wisconsin was no longer in play and pulled out completely.

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Unfortunately, this inequality translates to governing, too. Presidents govern to swing states. Witness President Obama's decision to sign the Recovery and Reinvestment Act in Denver rather than the economically devastated Detroit – Michigan is safe, Colorado is a swing state.

The way to ensure that Wisconsin avoids sliding into presidential irrelevance in the future is to make every vote equal.

A national popular vote ensures that a vote in Eau Claire will always be as valuable as a vote in Iowa; that a vote in Clayton is as sought after as a vote in Cleveland.

Making this change will also have a restorative effect on voter participation, grassroots involvement, and a sense of civic involvement. Republicans regularly win statewide elections in California and New York, and Democrats win in Texas – when candidates actually campaign for votes and every vote is equal.

People know when their vote matters.

A national popular vote will let every voter in the country and every voter in Wisconsin know that they count and our democracy is truly one of equality.

Thank you for your time and consideration. I would be happy to answer any questions.

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The Electoral College Serves Us Well

*Testimony of **Phyllis Schlafly***
to the
Committee on Elections and Campaign Reform
Wisconsin State Assembly
February 17, 2009

The Electoral College is one of the provisions of our U.S. Constitution that the liberals hate the most. When Hillary Clinton was elected to the Senate, her first legislative proposal was to call for the abolition of the Electoral College.

The Electoral College is one of the legacies of the inspired genius of our Founding Fathers. It was part of the Great Compromise between the big states and the small states which transformed us from 13 rival colonies into a constitutional republic. This Great Compromise brought together the large and small by means of a national Congress, with the House based on population and the Senate based on state sovereignty.

The Electoral College is grounded in this same brilliant compromise: it allows all states, regardless of size, to be players in the process of electing our President. Its rationale and structure are the perfect mirror of the Great Compromise that made our Constitution possible: the combination of equal representation of states with representation based on population. Our Presidents are elected by a majority of votes in the Electoral College, with each state's vote weighted based on its population.

The Electoral College induces presidential candidates to gear their time, money and policies toward the whole country, not merely toward the half dozen most populous states. If we had a popular-vote process, the temptation would be irresistible for presidential candidates to offer the moon wrapped in federal dollars to the states where big-city machines can pile up extra millions of votes.

The Electoral College is the unique vehicle that gives us a President who achieves a majority in a functioning political process. It saves us from the fate of other nations that suffer from the complexities, uncertainties and agonies of coalition governments patched together when no candidate or party wins a popular-vote majority.

The Electoral College is particularly fortuitous in close elections because it saves us from the calamity of having to recount votes in many or even all 50 states. Remember the election of 2000, when the result was unknown for weeks while we waited for recounts in Florida. If victory had depended on the country's total popular vote, we would have suffered demands for recounts and legal challenges in many states — not only states that ended in a close vote, but also the states that carried big for one candidate, who could try to scrape up an additional few hundred votes.

Because of third parties, it is very difficult for a candidate ever to receive 50+% of the popular vote. We would nearly always be saddled with minority presidents without an adequate basis of support for leadership.

Remember, it is so easy to make credible charges of election fraud in almost every state.

Another advantage of our Electoral College is that, except as a last resort, it keeps the meddling fingers of Congress out of the election process. The Electoral College is the only function of our national government that is performed outside of Washington, D.C. The President is actually elected by electors chosen in their states according to their own state election laws, who meet and cast their ballots in their own state capitals. No Senator, Representative, or other federal official is permitted to be an elector in the Electoral College.

The Electoral College has served us well for more than two centuries, with repeated peaceful transfers of power, and there is every reason to believe it can continue to serve us for the next century. No one has proposed a better alternative.

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About Phyllis Schlafly

Phyllis Schlafly is a lawyer who served as a member of the Commission on the Bicentennial of the U.S. Constitution, 1985-1991, appointed by President Reagan. She has testified before more than 50 Congressional and State Legislative committees on constitutional, national defense, and family issues. She is the author or editor of 20 books. She is the founder and president of Eagle Forum, a national volunteer organization with chapters in every state.

Mrs. Schlafly is a Phi Beta Kappa graduate of Washington University, received her J.D. from Washington University Law School, and received her Master's in Political Science from Harvard University. In 2008 Washington University/St. Louis awarded Phyllis an honorary Doctor of Humane Letters.

ACLU Of Wisconsin Statement in Support of Entering Into an Agreement Among the States to Elect the President of the United States by Means of a National Popular Vote (AB 751)

Submitted to the Assembly Committee on Elections and Campaign Reform February 17, 2010

The American Civil Liberties Union national Executive Committee at its meeting on September 11, 2009, with the endorsement of the ACLU Voting Rights Project, approved ACLU support of the National Popular Vote (NPV) compact, which would award the presidency to the candidate who received the largest number of popular votes in all 50 states and the District of Columbia. This compact would not go into effect until enacted by states collectively possessing a majority of the electoral vote - 270 of the 538 electoral votes.

To prevent partisan manipulation, the compact contains a six-month blackout period from before the election through the January 20 inauguration during which a state would be prevented from withdrawing from the compact. The compact would eliminate the possibility under the existing system of "faithless presidential electors," i.e., an elector casting a ballot for a candidate other than the one chosen by the majority of the state's voters.

It would also eliminate the possibility that a presidential election would be decided by the House of Representatives and a vice presidential election would be decided by the Senate, in the event no person received a majority of the Electoral College votes, as is provided by current law. Most notably, the compact would eliminate the possibility that a candidate who received the most popular votes, but did not receive the requisite 270 Electoral College votes needed to win, could lose the election, as happened, for example, in the Bush-Gore 2000 election. **The 2000 election was actually the fourth time in American history when the winner of the popular vote failed to win the presidency: those elections were in 1824 (Adams-Jackson), 1876 (Hayes-Tilden), 1888 (Harrison-Cleveland), and 2000 (Bush-Gore).**

Current ACLU Policy #324, adopted in 1969, provides: "The Union supports an amendment to the Constitution of the United States to provide for the election of the President and Vice-President by direct popular vote, on condition, however, that such amendment contains the following provisos: (1) if no candidate receives more than a fixed percentage of the total number of votes cast - preferably a majority but not less than 40% - a run-off election be held between the two highest contenders for the offices of President and Vice-President respectively; and (2) federally prescribed and federally supervised uniform non-discriminatory procedures and standards for registration and voting in such elections are required." While NPV is not a constitutional amendment and does not contain a 40% provision, it is consistent with ACLU policy premised on the belief "that the electoral college from its basic conception was and is an

undemocratic institution. It was brought into being based on a concept of elitism, under which the most distinguished citizens of each state would choose the President and Vice-President of the United States, unhampered by the wishes of those who selected the electors.

ACLU believes that the Electoral College should be abolished and the President of the United States should be chosen by direct popular election. Our position is based on the principle that each individual is entitled to the equal protection of the laws in having an elector's vote equally weighed, and on its corollary enunciated in the one-man, one vote rule.

The ACLU would be concerned that inserting a runoff provision into the National Popular Vote plan might lead to a scheme in which voters would have to go to the polls more than once. Such a result might place an undue burden on voters and has the potential to reduce the number of votes cast. Therefore, the Board is currently re-examining the 40% runoff provision of Policy #324. Only once has a presidential candidate failed to receive at least 40% of the popular vote. In the 1860 election, Abraham Lincoln received 39.65% of the popular vote and won the election with 59.41% of the Electoral College vote.

The constitutionality of the National Popular Vote compact is supported by Article II, Section 1 of the Constitution which provides that: "Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors . . ." Thus, the **states have inherent power to select their Electors as they see fit**, provided the method of selection does not violate some other provision of the constitution, e.g., the Fourteenth or Fifteenth Amendments.

As of November 2009, five states have enacted the National Popular Vote compact: Hawaii, Illinois, Maryland, New Jersey, and Washington. That amounts to 61 (23%) of the 270 electoral votes needed to activate the compact. In 2009, the compact was introduced in legislatures in 31 other states. In nine of these states, the compact was approved by one of the two legislative bodies: Arkansas, Colorado, Connecticut, Delaware, New Mexico, Nevada, Oregon, Rhode Island, and Vermont.

The ACLU of Wisconsin has approximately 9,000 members who support its efforts to defend the civil liberties and civil rights of all Wisconsin residents. For more on the work of the ACLU of Wisconsin, visit our webpage. You can also get news and opinion on civil liberties in Wisconsin on our Cap City Liberty blog. Find us on Facebook and Twitter at ACLUMadison and ACLUofWisconsin.

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National Popular Election of the President

National Popular Vote!

www.NationalPopularVote.com

February 17, 2010

Constitutionality of the National Popular Vote Bill

Hon. Jeff Smith, Chair
House Committee on Elections and Campaign Reform
Wisconsin State Assembly
State Capitol
Madison, WI 53708

Dear Representative Smith,

This letter discusses whether the National Popular Vote bill is constitutional.

In this letter, we first explain why the National Popular Vote bill is constitutional (section 1). We then discuss (section 2) the related question of whether it is appropriate and historically precedented for states to take the initiative in changing the method of electing the President. Finally, we discuss the advantages of an interstate compact over a federal constitutional amendment for changing the method of electing the President (section 3).

1. The National Popular Vote Bill is Constitutional

It is important to recognize what the U.S. Constitution says, and does not say, about the method of electing the President. The Founding Fathers never reached a conclusion at the Constitutional Convention of 1789 as to how the President would be elected. Instead, the U.S. Constitution granted the states exclusive and plenary (i.e., complete) control over the manner of awarding their electoral votes.

Article II of the U.S. Constitution says:

> "Each State shall appoint, in such Manner **as the Legislature thereof may direct**, a Number of Electors...."[1] [Emphasis added]

The winner-take-all rule (i.e., awarding all of a state's electoral votes to the candidate who receives the most popular votes in each individual state) is not set forth in the U.S. Constitution. It is entirely a matter of state law. When the Founding Fathers returned from the Constitutional Convention to their states to organize the nation's first presidential election in 1789, only three states chose to employ the winner-take-all rule for awarding their electoral votes.

The winner-take-all rule is state legislation that had been adopted on a state-by-state basis. It became prevalent with the emergence of strong political parties seeking to maximize regional power in the run-up to the Civil War. More importantly, the winner-take-all rule did not come into effect by means of an amendment to the U.S. Constitution. Accordingly, changing the winner-take-all rule does not require an amendment to the U.S. Constitution. The winner-take-all rule may be changed in the same way that it was adopted, namely through the enactment by state legislatures of state laws on a state-by-state basis.

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[1] U.S. Constitution. Article II, section 1, clause 2.

The wording "as the Legislature ... may direct" in Article II of the U.S. Constitution is an unqualified grant of plenary and exclusive power to the states. This constitutional provision does not encourage, discourage, require, or prohibit the use of any particular method for awarding the state's electoral votes. This wording certainly does not require the use of the winner-take-all rule. States may exercise this grant of power in any way they see fit, provided only that they do not violate other specific provisions of the U.S. Constitution. As the U.S. Supreme Court stated in the 1892 case of *McPherson v. Blacker*:

> ""The constitution does not provide that the appointment of electors shall be by popular vote, nor that the electors shall be voted for upon a general ticket, nor that the majority of those who exercise the elective franchise can alone choose the electors. It recognizes that the people act through their representatives in the legislature, and **leaves it to the legislature exclusively to define the method** of effecting the object. The framers of the constitution employed words in their natural sense; and, where they are plain and clear, resort to collateral aids to interpretation is unnecessary, and cannot be indulged in to narrow or enlarge the text."[2] [Emphasis added]
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> "In short, the appointment and mode of appointment of electors belong **exclusively** to the states under the constitution of the United States."[3] [Emphasis added]

The winner-take-all rule has been adopted and repealed by various states at various times. All three of the states that used the winner-take-all rule in the first presidential election in 1789 repealed it by 1800 (and each later re-adopted it).

As recently as 1992, Nebraska switched from the winner-take-all rule to a congressional-district system of awarding electoral votes. Maine did so in 1969.

The North Carolina legislature has exercised its power to change the method of awarding the state's electoral votes on four occasions. In 1792, the legislature chose the presidential electors. The people voted for electors from presidential-elector districts between 1796 and 1808. Then, the Legislature chose the electors in 1812. In 1816, the legislature changed to the statewide winner-take-all rule.

Massachusetts has exercised its power to change its system of awarding its electoral votes on 10 different occasions. In 1789, the Massachusetts legislature, in effect, chose the state's presidential electors. In 1792, the voters were allowed to elect presidential electors in four multi-member regional districts. Then, the voters picked electors by congressional districts (with the legislature choosing the state's remaining two electors). Shortly thereafter, the legislature took back the power to pick all the presidential electors (excluding the voters entirely). Later, the voters picked electors on a statewide basis using the winner-take-all rule. Then, the legislature again decided to pick the electors itself, followed by the voters using districts, followed by another return to legislative choice, followed again by the voters using districts, and, finally, the present-day statewide winner-take-all rule. None of these 10 changes required an amendment to

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[2] *McPherson v. Blacker*. 146 U.S. 1 at 27. 1892.

[3] *McPherson v. Blacker*. 146 U.S. 1 at 29. 1892.

the U.S. Constitution because the Founding Fathers and U.S. Constitution gave Massachusetts (and all the other states) exclusive and plenary power to award their electoral votes.

In short, there is nothing in the U.S. Constitution that needs to be amended in order for states to change from the current system of awarding all of a state's electoral votes to the candidate who receives the most popular votes in each individual state (the winner-take-all rule) to a system in which the states award their electoral votes to the candidate who receives the most popular votes in all 50 states and the District of Columbia. The states already have the power, under the U.S. Constitution, to make this change. As a result, a federal constitutional amendment is not required.

Control over elections is intentionally, not accidentally, a state power under the U.S. Constitution. The Founding Fathers had good reason to give the states the power to control the conduct of presidential elections. They specifically wanted to thwart the possibility that an over-reaching President, in conjunction with a possibly compliant Congress, could manipulate the manner of conducting presidential elections in a politically advantageous way. For similar reasons, the U.S. Constitution gives the states primary power over the manner of conducting congressional elections.[4]

A successful challenge to the National Popular Vote compact on constitutional grounds is unlikely, given the fact that constitutional law concerning interstate compacts is well settled and given the fact that the National Popular Vote compact is based on the exclusive and plenary (i.e., complete) power of the states to award their electoral votes as they see fit.

First, as already mentioned, the U.S. Supreme Court has repeatedly characterized the authority of the states over the manner of awarding their electoral votes as "plenary" and "exclusive." In *Bush v. Gore* in 2000, the Court called article II, section 1, clause 2:

> "The source for the statement in *McPherson* v. *Blacker* ... that the State legislature's power to select the manner for appointing electors is **plenary.**"[5] [Emphasis added]

Second, there are no restrictions in the U.S. Constitution on the subject matter of interstate compacts, other than the implicit limitation that a compact's subject matter must be among the powers that the states are permitted to exercise. As previously mentioned, the states possess the exclusive power to choose the manner of awarding their electoral votes.

Third, we are not aware of any case in which the courts have invalidated an interstate compact.[6] Over the years, the states have employed interstate compacts for more and more purposes (as discussed in chapter 5 of our book *Every Vote Equal: A State-Based Plan for Electing the President by National Popular Vote*). Given the recent tendencies of the courts to

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[4] U.S. Constitution. Article I, section 4, clause 1. State power over congressional elections in Article I (unlike state power over presidential elections in Article II) is subject to oversight and veto by Congress.

[5] *Bush v. Gore*. 531 U.S. 98. 2000.

[6] There are cases where a higher court invalidated a ruling by a lower court invalidating an interstate compact. See, for example, *West Virginia ex rel. Dyer v. Sims*. 341 U.S. 22. 1950.

accord even greater deference to states' rights and even freer use of interstate compacts by the states, it is unlikely that the courts would invalidate the National Popular Vote compact. The National Popular Vote compact is an example of states' rights in action.

Fourth, there is no argument that the winner-take-all rule is entitled to any special deference based on history or the historical meaning of the words in the U.S. Constitution. The winner-take-all rule (i.e., awarding all of a state's electoral votes to the candidate who receives the most popular votes in a particular state) is not mentioned in the U.S. Constitution, the debates of the Constitutional Convention, or the Federalist Papers. The actions taken by the Founding Fathers in organizing the nation's first presidential election in 1789 (in particular, the fact that only three states used the winner-take-all rule) make it clear that the Founding Fathers never gave their imprimatur to the winner-take-all rule.

2. It is Appropriate and Historically Precedented for the States to Take the Initiative in Changing the Method of Electing the President

Nearly all the major changes in the method of electing the President have been initiated by action at the state level—not by action at the federal level.

In terms of electing the President, state control is precisely what the Founding Fathers intended, and it is precisely what the U.S. Constitution specifies. The Founding Fathers created an open-ended system with built-in flexibility concerning the manner of electing the President.

Permitting the People to Vote for President

Let's start by discussing the most significant change that has ever been made in the way the President of the United States is elected, namely allowing the people to vote for President. There is nothing in the U.S. Constitution that gives the people the right to vote for President. The Founding Fathers gave the states plenary and exclusive power to specify the manner of conducting presidential elections. In the nation's first presidential election in 1789, only five states permitted the people to vote for their state's presidential electors. In the remaining states, the state legislatures (or, in New Jersey, the governor and his council) appointed the electors. The people acquired the vote for President by the enactment by state legislatures of state laws. The states exercised their role, under the U.S. Constitution, as the "laboratories of democracy."[7]

With the passage of time, more and more states observed that permitting the people to vote for President did not produce any disastrous consequences. By 1824, three-quarters of the states had adopted the idea that the people should be permitted to vote for President. The state-by-state process of empowering the people to vote for President was completed by the time of the 1880 election.

This fundamental change in the manner of electing the President was not accomplished by means of a federal constitutional amendment. Instead, it was accomplished through state-by-state changes in state law. Permitting the people to vote for President was not an "end run" around the U.S. Constitution but, instead, an exercise of a power that the Founding Fathers

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[7] Justice Louis Brandeis said in the 1932 case of *New State Ice Co. v. Liebmann* (285 U.S. 262), "It is one of the happy incidents of the federal system that a single courageous state may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country."

explicitly assigned to state legislatures in the Constitution. We have not encountered a single person who argues that the state legislatures did anything improper, inappropriate, or unconstitutional when they made this fundamental change in the way the President is elected.

Elimination of Property and Wealth Qualifications for Voting

When the U.S. Constitution came into effect in 1789, only wealthy property holders were entitled to vote in most states. At that time, there were only about 100,000 eligible voters in a nation of over 3,000,000 people. By 1800, three states permitted universal white male suffrage. By 1830, this number had increased to 10 (of the 24 states at the time).

Today, there are no property qualifications for voting in any state. The elimination of property qualifications was not accomplished by means of a federal constitutional amendment. This very substantial 10-to-1 expansion of the electorate was an example of the use by state legislatures of a power explicitly granted to them by the U.S. Constitution to decide the manner of conducting elections. Eliminating property qualifications for voting was not improper, inappropriate, or unconstitutional. It was not an "end run" around the U.S. Constitution, but an exercise of power explicitly granted by the Constitution.

Women's Suffrage

In several instances, a major reform initiated at the state level led to a subsequent federal constitutional amendment. For example, women did not have the right to vote when the U.S. Constitution came into effect in 1789 (except in New Jersey, where that right was withdrawn in 1807). Wyoming gave women the right to vote in 1869. By the time (50 years later) the 19th Amendment was passed by Congress, women already had the vote in 30 of the then-48 states.

The decision by 30 separate states to permit women to vote in the 50-year period between 1869 and 1919 was not an "end run" around the U.S. Constitution. We have not encountered a single person who argues that state legislatures did anything improper, inappropriate, or unconstitutional when they made this very substantial 2-to-1 expansion of their electorates. This major change was simply another example of the state legislatures using a power that the U.S. Constitution explicitly granted to the states concerning the conduct of elections.

It should be remembered that the only effect of the 19th Amendment was to extend women's suffrage to the minority of states (18) that had not already acted at the state level to permit women to vote. Women's suffrage was achieved because 30 states exercised their power as the "laboratories of democracy" to change the manner of conducting their own elections. Indeed, the 19th Amendment only passed Congress in 1919 because women already constituted half the electorate in 30 states (and because the members of Congress from the remaining states knew that it was only a matter of time before women would obtain the right to vote in the remaining states, with or without the federal constitutional amendment).

Direct Election of U.S. Senators

The direct election of U.S. Senators is another example of a major change initiated at the state level. The original U.S. Constitution specified that U.S. Senators were to be elected by state legislatures. Starting with the "Oregon Plan" in 1907, states passed laws establishing "advisory" elections for U.S. Senator. Under the Oregon plan, the people cast their votes for U.S. Senator in a statewide "advisory" election, and the state legislature then dutifully rubberstamped the people's choice. By the time the 17th Amendment passed the U.S. Senate in 1912, the voters were, for all practical purposes, electing U.S. Senators in a majority of the states.

Black Suffrage

African Americans had the right to vote in New York in the 1820s and in five states by the 1850s. Black suffrage was later extended to all states by the 15th Amendment (ratified in 1870).

18-Year-Old Vote

Persons under the age of 21 first acquired the right to vote in various states (e.g., Georgia, Kentucky, Alaska, Hawaii, and New Hampshire). Later, the 26th Amendment extended this practice to all states in 1971.

3. Advantages of an Interstate Compact over a Federal Constitutional Amendment for Changing the Method of Electing the President

State action offers several advantages over a federal constitutional amendment.

First, it is far easier to amend state legislation than to repeal a constitutional amendment. It should be noted that only two states elected their governors in 1789. Now 100% of the states do so. After over 5,000 popular elections for governor, we are not aware of any buyer's remorse in terms of the switch to popular election of governors. However, if some "unintended consequence" were to materialize or some adjustment were to become advisable in the National Popular Vote interstate compact, the states can amend the compact (and even withdraw) in the same way that they passed it (that is, by enactment of a bill in the legislature).

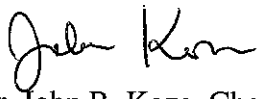
Second, the National Popular Vote compact leaves untouched the states' existing power to control presidential elections. Most of the constitutional amendments that have been debated in Congress over the years have taken away state control over presidential elections and given it to Congress. An example is Florida U.S. Senator Bill Nelson's recently introduced constitutional amendment for direct popular election of the President. (Senator Nelson has also publicly endorsed the National Popular Vote bill).

The Founders were suspicious of an over-reaching President who might, in conjunction with a compliant legislative branch, try to alter the method of conducting presidential elections in a politically advantageous manner. As a "check and balance" on the central government, the Founders dispersed the power to control federal elections among the states, knowing that no single "faction" would simultaneously be in power in all the states.

Third, passing a constitutional amendment requires an enormous head of steam at the front-end of the process (i.e., getting a two-thirds vote in both houses of Congress). In contrast, state action permits support to bubble up from the people through their state legislatures. The genius of the U.S. Constitution is that it provides a way for both the central government and the state governments to initiate action. There have been only 17 amendments since passage of the Bill of Rights. The last time that Congress successfully launched a federal constitutional amendment (voting by 18-year-olds) was in 1971. Thus, experience indicates that building support locally is more likely to yield success.

If you have any additional questions, please call me.

Yours truly,



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Email: koza@NationalPopularVote.com

cc: Representative James Soletski, Vice-Chair
Representative Frederick Kessler
Representative Annette Polly Williams
Representative Kelda Helen Roys
Representative Jeff Stone
Representative Donald Pridemore
Representative Roger Roth

National Popular Election of the President

National Popular Vote!

www.NationalPopularVote.com

The National Popular Vote plan:

- Updates the Electoral College so we have a popular vote for the President
- Guarantees the candidate with the most votes is elected
- Makes every vote for President equal, no matter what state you live in
- Means that no state gets ignored

The National Popular Vote bill has:

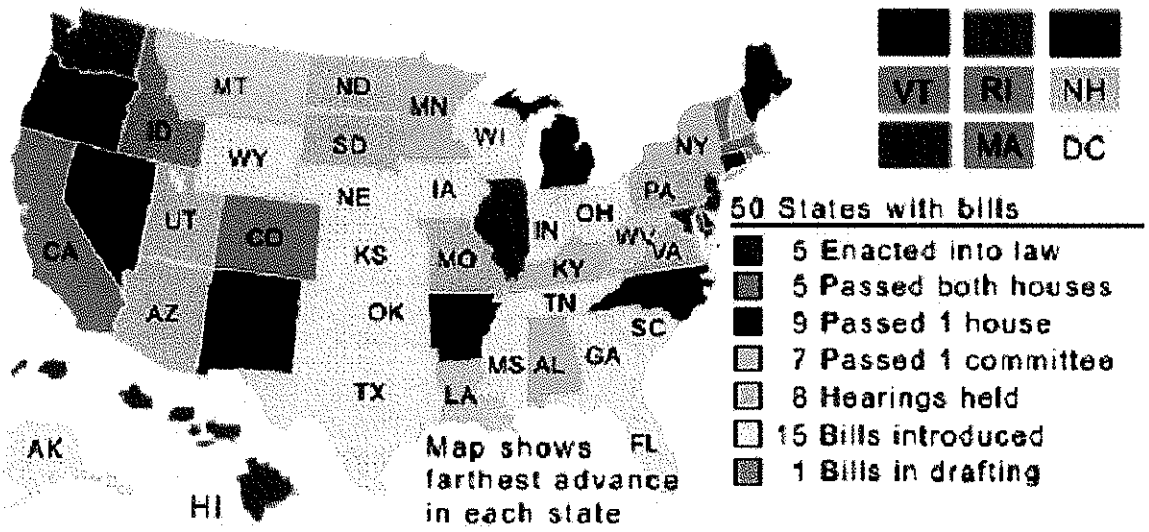
- Passed 29 legislative chambers in 19 states: Arkansas, California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, Michigan, New Jersey, New Mexico, Nevada, North Carolina, Oregon, Rhode Island, Vermont, and Washington.
- Enacted into law in Hawaii, Illinois, Maryland, New Jersey, and Washington
- Supported by more than 1800 legislators in 50 states

National Popular Vote:

- Has earned endorsements from the *New York Times, Chicago Sun Times, LA Times, Hartford Courant, the Boston Globe, Sacramento Bee,* and more
- Is supported by more than 71% of Wisconsin voters.

The bill:

- Uses the flexibility given to States by the US Constitution and the Founding Fathers
- Only takes effect once states representing 270 Electoral Votes have passed the bill
- Already has 61 Electoral Votes in the agreement



For more information visit: www.NationalPopularVote.com

National Popular Election of the President

National Popular Vote!

www.NationalPopularVote.com

February 15, 2010

"Agreement Among the States to Elect the President by National Popular Vote"

The National Popular Vote bill would guarantee the Presidency to the candidate who receives the most popular votes in all 50 states (and the District of Columbia).

The bill has passed 29 legislative chambers in 19 states (AR, CA, CO, CT, DE, HI, IL, ME, MD, MA, MI, NV, NJ, NM, NC, OR, RI, VT, WA) and been endorsed by 1,825 state legislators.

The bill has been enacted by state legislatures representing 61 electoral votes — 23% of the 270 necessary to activate the law (Hawaii, Illinois, Maryland, New Jersey, and Washington).

The shortcomings of the current system stem from the winner-take-all rule (i.e., awarding all of a state's electoral votes to the candidate who receives the most popular votes in each state).

Because of the winner-take-all rule, a candidate can win the Presidency without winning the most popular votes nationwide. This has occurred in 4 of the nation's 56 presidential elections (and 1 in 7 of the non-landslide elections). A shift of fewer than 60,000 votes in Ohio in 2004 would have defeated President Bush despite his nationwide lead of 3,500,000 votes.

Another shortcoming of the winner-take-all rule is that presidential candidates have no reason to poll, visit, advertise, or organize in states where they are comfortably ahead or hopelessly behind. In 2008, candidates concentrated over two-thirds of their campaign visits and ad money in just six closely divided "battleground" states. A total of 98% went to just 15 states. In other words, voters in two thirds of the states were essentially spectators to the election.

The U.S. Constitution gives the states exclusive and plenary control over the manner of awarding their electoral votes. The winner-take-all rule is not in the Constitution. It was not the Founder's choice and was used by only 3 states in the nation's first presidential election in 1789. Maine and Nebraska currently award electoral votes by congressional district — a reminder that an amendment to the U.S. Constitution is not required to change the way the President is elected.

Under the National Popular Vote bill, all the electoral votes from the enacting states would be awarded, as a bloc, to the presidential candidate who receives the most popular votes in all 50 states (and DC). The bill would take effect only when enacted by states possessing a majority of the electoral votes — that is, enough electoral votes to elect a President (270 of 538). The bill would replace the current state-by-state system of awarding electoral votes with a system based on winning the most individual votes in all 50 states (and DC).

The bill has been endorsed by the *New York Times*, *Chicago Sun-Times*, *Minneapolis Star-Tribune*, *Los Angeles Times*, *Boston Globe*, *Sacramento Bee*, Common Cause, and Fair Vote.

State polls show strong support for a national popular vote (AK–70%, AR–80%, CA–70%, CO–68%, CT–74%, DC–76%, DE–75%, ID–77%, IA–75%, KY–80%, ME–77%, MA–73%, MI–73%, MS–77%, MO–70%, NH–69%, NE–74%, NV–72%, NM–76%, NY–79%, NC–74%, OH–70%, OK–81%, PA–78%, RI–74%, SD–75%, UT–70%, VT–75%, VA–74%, WA–77%, WI–71%, and WV–81%). Support is strong in every partisan and demographic group.

The National Advisory Board of National Popular Vote includes former congressmen John Anderson (R–Illinois and later independent presidential candidate), John Buchanan (R–Alabama), Tom Campbell (R–California), and Tom Downey (D–New York) and former Senators Birch Bayh (D–Indiana), David Durenberger (R–Minnesota), and Jake Garn (R–Utah).

Additional information is available in our book *Every Vote Equal: A State-Based Plan for Electing the President by National Popular Vote* and at `www.NationalPopularVote.com`.

In summary, the National Popular Vote bill will guarantee that every voter in every state will be politically relevant in every presidential election and that every vote will be equal.

Phone: 650-472-1587 • Fax: 650-941-9430 • Box K, Los Altos, CA 94023 • info@NationalPopularVote.com

National Popular Election of the President

National Popular Vote!

www.NationalPopularVote.com

February 17, 2010

71% of Wisconsin Voters Favor a National Popular Vote for President

Hon. Jeff Smith, Chair
House Committee on Elections and Campaign Reform
Wisconsin State Assembly
State Capitol
Madison, WI 53708

Dear Representative Smith,

The National Popular Vote bill guarantees that

- the presidential candidate with the most popular votes in all 50 states (and DC) will win the Presidency;
- every voter in every state will be politically relevant in every presidential election; and
- every vote will be equal.

The National Popular Vote bill has passed 29 legislative chambers in 19 states (Arkansas, California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, Michigan, Nevada, New Jersey, New Mexico, North Carolina, Oregon, Rhode Island, Vermont, and Washington).

The bill has sponsors in all 50 states and has been endorsed by 1,825 state legislators.

The National Popular Vote bill has been enacted by states representing 61 electoral votes — 23% of the 270 necessary to activate the law (Hawaii, Illinois, Maryland, New Jersey, and Washington).

The National Popular Vote bill is an interstate compact called the "Agreement Among the States to Elect the President by National Popular Vote."

A statewide survey of 800 Wisconsin voters showed 71% overall support for a national popular vote for President. Support was 81% among Democrats, 67% among independents, and 63% among Republicans. By age, support was 68% among 18-29 year olds, 62% among 30-45 year olds, 72% among 46-65 year olds, and 76% for those 65 and above. By gender, support was 80% among women and 61% among men. By race, support was 72% among whites (representing 89% of respondents), 64% among African-Americans (representing 5% of respondents), and 58% among others (representing 5% of respondents). The survey was conducted on December 12-14, 2008 by Public Policy Polling and has a margin of error of plus or minus 3 1/2%.

The shortcomings of the current system stem from the winner-take-all rule (i.e., awarding all of a state's electoral votes to the candidate who receives the most popular votes in each state).

Because of the winner-take-all rule, a candidate can win the Presidency without winning the most popular votes nationwide. This has occurred in 4 of the nation's 56 presidential elections (and 1 in 7 of the non-landslide elections). Moreover, a shift of a handful of votes in one or two states would have elected the second-place candidate in five of the last 12 presidential elections. For example, a shift of fewer than 60,000 votes in Ohio in 2004 would have defeated President Bush despite his nationwide lead of 3,500,000 votes.

Phone: 650-472-1587 • Fax: 650-941-9430 • Box K, Los Altos, CA 94023 • info@NationalPopularVote.com

Another shortcoming of the winner-take-all rule is that presidential candidates have no reason to poll, visit, advertise, or organize in states where they are comfortably ahead or hopelessly behind. In 2008, candidates concentrated over two-thirds of their campaign visits and advertising money in just six closely divided "battleground" states. A total of 98% went to just 15 states. Voters in two thirds of the states were essentially spectators to the election.

Under a national popular vote, every vote in Wisconsin would matter in every election. Both presidential candidates would have to pay attention to Wisconsin voters and issues in every election because a vote in Wisconsin would always be just as important as a vote anywhere else.

The U.S. Constitution gives the states exclusive and plenary control over the manner of awarding their electoral votes. Article II, Section 1, Clause 2 of the U.S. Constitution states:

> "Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors...."

The winner-take-all rule is not in the Constitution. It was not the Founder's choice and was used by only 3 states in the nation's first presidential election in 1789. Maine and Nebraska currently award electoral votes by congressional district — a reminder that an amendment to the U.S. Constitution is not required to change the way the President is elected.

Under the National Popular Vote bill, all the electoral votes from the enacting states would be awarded, as a bloc, to the presidential candidate who receives the most popular votes in all 50 states (and DC). The bill would take effect only when enacted by states possessing a majority of the electoral votes — that is, sufficient electoral votes to elect a President (270 of 538).

The National Popular Vote bill would replace the current system based on which candidate happens to get the most popular votes in each separate state with a system that guarantees the Presidency to the candidate gets the most individual votes in all 50 states (and DC).

State polls show strong support for a national popular vote (AK–70%, AR–80%, CA–70%, CO–68%, CT–74%, DC–76%, DE–75%, ID–77%, IA–75%, KY–80%, ME–77%, MA–73%, MI–73%, MS–77%, MO–70%, NH–69%, NE–74%, NV–72%, NM–76%, NY–79%, NC–74%, OH–70%, OK–81%, PA–78%, RI–74%, SD–75%, UT–70%, VT–75%, VA–74%, WA–77%, WI–71%, and WV–81%). Support is strong in every partisan and demographic group.

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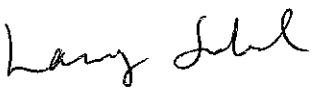
Additional information is available in our book *Every Vote Equal: A State-Based Plan for Electing the President by National Popular Vote* and at `www.NationalPopularVote.com`.

Yours truly,



Larry Sokol
Phone: 916-524-5505
Email: larry @NationalPopularVote.com

cc: Representative James Soletski, Vice-Chair
Representative Frederick Kessler
Representative Annette Polly Williams
Representative Kelda Helen Roys
Representative Jeff Stone
Representative Donald Pridemore
Representative Roger Roth

Wisconsin Family Action
Strengthening & Preserving Marriage, Family, Life & Liberty

PO Box 1327 • Madison WI 53701-1327
608-268-5074 (Madison) • 866-849-2536 (toll-free) • 608-256-3370 (fax)
Email: info@wifamilyaction.org
Web site: www.wifamilyaction.org
Blog: www.wisconsinfamilyvoice.wordpress.com

Testimony in Opposition to Assembly Bill 751
Assembly Committee on Elections and Campaign Reform
Julaine K. Appling, WFA President
February 17, 2010

Thank you, Chairman Smith and committee members, for the opportunity to testify today on Assembly Bill 751. My name is Julaine Appling, and I am testifying today as president of Wisconsin Family Action, a statewide organization that represents tens of thousands of Wisconsin individuals and families, as well as thousands of churches, who are concerned about strengthening and preserving marriage, family, life and liberty in our state. I am speaking today in opposition to AB 751.

For years, we've had debated the need for the Electoral College. The debate is not new. What is new is the approach proposed in this bill. This is a sham. It is yet another attempt to put one over on the people of this state and this nation. AB 751 is part of a national push by an organization that from records available on the state's lobbying site has been actively at work since at least July of last year, lobbying legislators to put such legislation forward in our state.

As proposed, AB 751 would do an end-run around the Electoral College. It is a well concealed, yet very direct attack that will produce a counterfeit national popular vote. The bill requires that Wisconsin enter a compact, an agreement, with all other states where this initiative becomes law. The compact stipulates that whoever wins the national popular vote in a presidential election will get all of Wisconsin's electoral votes, presently 10, regardless of whether or not that candidate actually won Wisconsin's popular vote. All of this happens via statute—without any opportunity for "we the people" to have a popular vote on this significant change in a US Constitutionally mandated process.

If National Popular Vote, a small but well funded national organization, and those who have bought their line, are really desirous of changing how we elect the US President, then let's following the constitutional prescription for doing that. Let's amend the constitution, which requires a two-thirds vote on the resolution in both the US House of Representatives and the US Senate, and ratification by three-quarters of the states. That ratification happens ultimately by, ironically, a direct vote of the people.

I can assure you that at this point the majority of the voters in this state know nothing about this scheme since it was introduced publicly as a legislative measure barely two days ago. Should this bill continue on this pace through the legislative process, Wisconsin citizens will have little to no input on an issue of considerable consequence, with significant change for our state and our nation and will have major ramifications.

Part of the reason a bill such as AB 751 has gained traction around the country is that we have a society filled with people who are uneducated about the type of government we have, as well as the Constitution in general, and certainly the Electoral College specifically. First, to clarify, we are not a democracy. That is part of the fallacy here. We are a republic…a representative republic governed by a Constitution that is derived from the will of the people.

As to the Electoral College, it is an election process created by the Founding Fathers and established in the U.S. Constitution, was a brilliant compromise between states with large populations and those with small populations. It is part of the federalism that the founders established—a delicate balance between the federal

government and the individual states. Each state is awarded a number of electoral votes for president based on state population *and* state sovereignty. The state popular vote for president determines which presidential candidate wins that state's electoral votes.

This bill would authorize the State of Wisconsin to take part in an interstate compact with other states, pledging that our state's electoral votes will go to the presidential candidate who wins, not the popular vote of Wisconsin, but the national popular vote. If you think one vote is lost in the thousands of Wisconsin votes cast for president, imagine what negligent impact that vote would have if it was only one of millions and millions of votes!

With the Electoral College, one vote constitutes a higher percentage of the total votes from the state and has a greater impact on the presidential election. With a national popular vote, the states with the highest populations determine the president, and then, under AB 751, Wisconsin is forced to elect that candidate, regardless of whether he/she was the choice of the majority of Wisconsin voters. In fact, under this bill, the candidate who receives Wisconsin's electoral votes may not have even qualified to be on our ballot.

The Electoral College protects states with small populations because, especially in a close election, even a smaller number of electoral votes can determine the outcome of the presidential election. Every state's electoral votes count, and are important. However, in a national public vote arrangement, the votes of individuals from populous states are more important to a candidate, and call for more of his/her campaign time.

Assembly Bill 751 also disenfranchises the states that choose not to agree to the interstate compact. Once 270 electoral votes are represented in the compact, the collective states have the ability to determine the president, with or without, the remaining states. By the way, it takes only 11 states to get to 270 electoral votes, but it takes 38 states to ratify an amendment to the Constitution. It's pretty obvious which one involves more citizens.

Finally, AB 751 has nothing in it that would create national standards for ballot access, nor does it create national standards for voter qualifications. It does not create national standards for requiring a recount of ballots within a state; and it has no majority requirement but allows a candidate with a plurality, no matter how small, to become President. There are simply no safeguards that ensure that an election is fairly won.

What is the rush in this bill? Why push to get it through so quickly and without open, public debate? Why not at least give this bill the thorough discussion it needs and actually solicit public input?

Right here in the rotunda of this building is a beautiful mosaic entitled, "Liberty." According to the artist, Liberty is pictured as guarding the ballot box. Truly, our liberty hinges on our ability to have fair and open elections. AB 751 does not ensure fair and open elections, but could very well do the opposite and make it much more difficult for this state and this country to have honest elections where truly every vote matters. We must guard the integrity of the ballot box and our election process—our liberty depends on it. This is obviously a very serious matter and prompts me to urge you to vote against Assembly Bill 751.

Thank you for your time today.

Comments In Opposition to AB 751: National Popular Vote Act

February 17, 2010

To the Members of the Assembly Elections and Campaign Reform Committee:

I am speaking in opposition to AB 751. The haste with which this bill has been introduced and this hearing scheduled does not speak well of the intent of the proposal.

Any major change affecting the way Wisconsin voters elect the President of the United States should be introduced so that all Wisconsin voters have the time and the necessary information regarding the impact of this change and to make their voices heard. As there have been previous attempts to make changes to this US Constitutional provision that have not been successful, this end-run to undermine the Electoral College process denies Wisconsin voters their right to a vote on such a change.

This proposal is being put forth by a small number of elected representatives. The Committee itself has only 7 members.

A full explanation of why the Electoral College was instituted by our Founding Fathers into the US Constitution and how a small, rural state like Wisconsin benefits from the Electoral College process is long overdue. The sponsors of the bill apparently feel that a "popular" vote would elect the President and, therefore, "every" vote would count. Actually, the change being proposed could lead to the voters of the 11 most populous states electing the President and leave the voters of Wisconsin out of the process altogether. It could lead to just this plurality of voters controlling Presidential elections.

The system we have benefitted from for well over 200 years has given us the benefit of peaceful transitions of power, election of a President by a majority of the electors chosen to represent their states and enables small and large, urban and rural states to equally participate in electing the person to lead our government.

I urge you not to support this bill and to begin to educate Wisconsin voters about the Electoral College and the full purpose of AB 751.

Thank you for considering my views.

Mary Ann Hanson
3740 Mountain Drive
Brookfield, Wisconsin 53045

In Defense of the Electoral College

The State of Wisconsin should not adopt this AB 751 for these reasons:

1. To keep votes voted on in Wisconsin to be counted as who the majority of voters in Wisconsin voted on not what the majority or plurality of the nation decided. Thereby it renders mute our state vote.
2. Our state is better able to handle recounts. If this went national it would be a nightmare.
3. What a mess if this would be handled as a national majority or plurality vote. There's enough cheating in elections already it would be a mess if it were on a national level that we would be a part of it. Cheating would be increase because parties would be promising payment of some form for their vote.
4. It would invite more of a 3rd party candidates and others to get involved because they would just need a plurality to get elected without having to go through the electoral process. We could have a president who was elected with as few as 15% of the vote if enough candidates would be involved.
5. Large states and cities would be where the candidates would campaign because all they would have to do it get the votes of those states and cities. It would render Wisconsin and small cities useless and we are part of this country.
6. It is unconstitutional Article 1 Section 10 prohibits any State without consent of Congress to enter into agreement or compact with another state. Read it!
7. We have had 55 elections and it has worked well in all of them. It may not be perfect but it is better than the chaos this would become. This is all a power play and partisans politics and I'm tired and angry about it. Do the job the people of Wisconsin sent you to do and it's not to mess with the Constitution.
8. Think in the terms of sports for example of how the Electoral College works. In baseball it's the team that wins the most games out of seven wins not the team that scores the most runs in the series. In tennis it the person who wins two out of three sets wins that the person who wins the most total games in those sets.
9. Our founders had it right they wrote the Constitution before we had all the interest groups and agendas that we had now. We are not a democracy we are a Constitutional Republic now let's keep it that way.

Paul West
4956 Edge o' woods Dr
West Bend, WI 53095

Bowers, Jim

From: kathleen kiernan [katzkiernan@att.net]
Sent: Tuesday, February 16, 2010 12:45 PM
To: Bowers, Jim
Subject: Objection to Assembly Bill 751

Representative Don Pridemore

I would like you to register my objection to the Assembly Bill 751 - National Popular Vote Bill.

I'm against this bill as it would take away any relevancy of voting in less populated states in regards to Federal Elections. The larger populated states and cities in our country or state would control the results of all future elections. States like Wisconsin would never be in play and would never be visited by candidates running for office.

Our founding fathers got it right. Unfortunately, many people do not understand the electoral college system that is still brilliant today.

Please do not pass the bill.

Thank you,
Kathleen A. Kiernan
1751 Scenic Road
Richfield, WI 53076
(262) 628-3500

Bowers, Jim

From: Jon Koula [jak1@frontiernet.net]
Sent: Tuesday, February 16, 2010 1:39 PM
To: Rep.Smith; Rep.Soletski; Rep.Kessler; Rep.WilliamsA; Rep.Roys; Rep.Stone; Rep.Pridemore; Rep.Roth
Cc: Sen.Kapanke; Rep.Nerison
Subject: AB-751---A bill against freedom

Dear Sirs:

I can't believe a bill like this even got to the meeting stage especially in Wisconsin. Who wants the large population areas to control who runs this country? Has big money controlled even our state to the point that there are Benedict Arnolds running it? Our forefathers gave up our legislatures right to pick U.S Senators who would truly represent Wisconsin. See what we got now. Two Senators who sell out to big money interests instead of protecting Wisconsin.
This bill is just another step to destroy this country. Majority rule is often called mobocracy and that's what you will get. You might as well consider the rule of law thrown out the window. While I can't be in Madison for your meeting tomorrow, I sure can let my thoughts be known.

Everyone knows that it is in the large populated areas where dead people vote, and the majority of corruption in voting occurs. Please put a stop to this bill. It' not worth the paper it is written on.

Sincerely,

Jon Koula
E56989A Koula Ln
Westby, WI 54667

Bowers, Jim

From: Barb Meyer [barbmeyer@wi.rr.com]
Sent: Tuesday, February 16, 2010 2:28 PM
To: Rep.Pridemore
Subject: Assembly Bill 751

Representative Pridemore,

All segments of the citizenry of the USA have been well served by the system of checks and balances contained in the US Constitution, including the Electoral College. I believe the Electoral College is an important factor in allowing the voices of all citizens to be equally considered and heard. **I strongly oppose Assembly Bill 751,** and its intent to elect the US President by means of a national popular vote. This is a bad idea for the country, but an especially bad idea for the citizens of Wisconsin, since the largest states by population would render our votes meaningless under such a system. Members of the WI Assembly are elected to represent and give highest priority to the interests of the citizens of this state; with that in mind, I respectfully ask that you vote against further action on Assembly bill 751.

Barbara Meyer
5348 Orchard Lane
Greendale, WI 53129

Bowers, Jim

From: DOROTHY FEDER [dottiebrkf@sbcglobal.net]
Sent: Tuesday, February 16, 2010 12:15 PM
To: Rep.Smith; Rep.Soletski; Rep.Kessler; Rep.WilliamsA; Rep.Roys; Rep.Stone; Rep.Pridemore; Rep.Roth
Subject: [Possible SPAM] Eagle Forum opposes AB 751 National Popular Vote!
Importance: Low

Please enter the following testimony into recorded opposition at the Public Hearing to be held on 2/17/10 by the Committee on Elections and Campaign Reform
Thank you,
Dottie Feder
President
Eagle Forum of Wisconsin

The Electoral College Serves Us Well

The Electoral College is one of the legacies of the inspired genius of our Founding Fathers. It was part of the Great Compromise between the big states and the small states which transformed us from 13 rival colonies into a constitutional republic. This Great Compromise brought together the large and small by means of a national Congress, with the House based on population and the Senate based on state sovereignty.

The Electoral College is grounded in this same brilliant compromise: it allows all states, regardless of size, to be players in the process of electing our President. Its rationale and structure are the perfect mirror of the Great Compromise that made our Constitution possible: the combination of equal representation of **states** with representation based on **population**. Our Presidents are elected by a majority of votes in the Electoral College, with each state's vote weighted based on its population.

The Electoral College induces presidential candidates to gear their time, money and policies toward the whole country, not merely toward the half dozen most populous states. If we had a popular-vote process, the temptation would be irresistible for presidential candidates to offer the moon wrapped in federal dollars to the states where big-city machines can pile up extra millions of votes.

The Electoral College is the unique vehicle that gives us a President who achieves a **majority** in a functioning political process. It saves us from the fate of other nations that suffer from the complexities, uncertainties and agonies of *coalition governments* patched together when no candidate or party wins a popular-vote majority.

The Electoral College is particularly fortuitous in close elections because it saves us from the calamity of having to recount votes in many or even all 50 states. Remember the election of 2000, when the result was unknown for weeks while we waited for recounts in Florida. If victory had depended on the country's total popular vote, we would have suffered demands for recounts and legal challenges in many states — not only states that ended in a close vote, but also the states that carried big for one candidate, who could try to scrape up an additional few hundred votes.

Because of third parties, it is very difficult for a candidate ever to receive 50+% of the popular vote. We would nearly always be saddled with minority presidents without an adequate basis of support for leadership.

Remember, it is so easy to make credible charges of election fraud in almost every state.

Another advantage of our Electoral College is that, except as a last resort, it keeps the meddling fingers of Congress out of the election process. The Electoral College is the only function of our national government that is performed outside of Washington, D.C. The President is actually elected by electors

legalizing vote-stealing and on changing the rules of presidential elections by a compact of as few as 11 states instead of the 38 states needed to amend the Constitution.

Anderson, Bayh, Buchanan and their associates in the Campaign for the National Popular Vote know they can't change the Electoral College honestly by passing a constitutional amendment. Their devious plan to bypass the U.S. Constitution must be defeated. Their slogan that NPV will "make sure every vote counts in presidential elections," and their implication that NPV will elect Presidents who get the majority of the popular vote (whereas it would be only a plurality), must be exposed as dishonest.

NPV has already been passed by Maryland, New Jersey, Illinois, Hawaii and Washington State. It's time to call a halt to this constitutional mischief.